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HIGH COURT OF CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI JAGDISH BHALLA, Ag. CJ

W.P. No. 713 of 2004

PETITIONER M/s Desai Oil Mill, through : Proprietor Rasiklal son of Jattu Bhai, resident of Ganjpara, Raipur (C.G.)

VERSUS

RESPONDENT Smt Veeran Bai, aged about 60 years widow of Late Radhelal, resident of Bharatnagar, Near Ganj Post Office, Raipur, Distt. and Tah. Raipur (Chhattisgarh)

Writ Petition under Article 227 of the Constitution of India.

Present: Shri G.S. Agrawal, Senior Advocate with Shri U. R. Koshale, counsel for the petitioner.
Shri Vinod Deshmukh, counsel for the respondent.

ORAL ORDER
(Passed on 14th August, 2007)

The petitioner has challenged the order dated 06.01.2004 passed in Appeal No. 36/P.G.A./03, by the appellate authority, Raipur, under the Payment of Gratuity Act, 1972 (for short the 'Act, 1972'), whereby the appeal of the petitioner was dismissed on the ground of one day delay only. It has been indicated that the limitation was wrongly calculated by the learned counsel and in support learned counsel for the petitioner Shri Bhupendra Sharma has filed his affidavit before this Court. Learned counsel for the petitioner submits that the appeal can be filed under Section 7(7) of the Act, 1972 within 60 days from the date of receipt of the order to the appropriate Government or such authority as may be specified by the appropriate Government on its behalf. It has been further provided that the authority concerned can extend the said period for filing an appeal to another 60 days, if sufficient cause has been found by the authority concerned. In the present case, the one day delay has been denied. The appeal has been dismissed on the ground of one day delay and the authority concerned has not even recorded any cause for not condoning the delay. Provisions of law clearly

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indicate that time for filing the appeal could be extended by one day. This Court finds that the order passed by the Courts below is neither in accordance with law nor any reasonable explanation has been given for refusing the condonation of one day's delay in filing appeal. I am of the opinion that always due weightage is given to the exceptional circumstances wherein the learned counsel files his affidavit and this Court cannot brush aside the affidavit filed by the learned counsel who calculated the limitation. Accordingly, the impugned order dated 06-01-2004 is set aside. The matter is remanded back to the appellate authority to consider the case on merit expeditiously.

With these observations, the writ petition stands disposed of.

Sd/-
Acting Chief Justice

Karuna/s